

melanmendiola

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FILED
DISTRICT COURT OF GUAM

MAY 29 2008

JEANNE G. QUINATA
Clerk of Court

IN THE UNITED STATES DISTRICT COURT

FOR THE TERRITORY OF GUAM

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MELAN JUNIOR MENDIOLA,

Defendant.

312 MAGISTRATE
~~CRIMINAL~~ CASE NO.

08-00014

COMPLAINT

FELON IN POSSESSION OF A FIREARM

[18 U.S.C. § 922(g)(1)] (Count I)

RECEIPT OF FIREARM WITH

OBLITERATED SERIAL NUMBER

[18 U.S.C. § 922(k) (Count II)]

USING AND CARRYING A FIREARM

DURING A CRIME OF VIOLENCE

[18 U.S.C. § 924(c)(1)(A)(iii) (Count III)]

THE UNDERSIGNED COMPLAINANT CHARGES UPON INFORMATION AND BELIEF THAT:

COUNT I - FELON IN POSSESSION OF A FIREARM

On or about May 31, 2003, in the District of Guam, MELAN JUNIOR MENDIOLA, the defendant, having been convicted in the Superior Court of Guam on or about April 21, 1998, in CF166-98, of Possession of a Controlled Substance, a crime punishable by imprisonment for a term exceeding one year, possessed in and affecting commerce a firearm, to wit: a Sturm, Ruger & Company, Inc., 9 millimeter caliber pistol, Model P85, with an obliterated serial number,

1 which had been shipped and transported in interstate or foreign commerce, in violation of Title
2 18, United States Code, Sections 922(g)(1).

3 **COUNT II - RECEIPT OF FIREARM WITH OBLITERATED SERIAL NUMBER**

4
5 On or about May 31, 2003, in the District of Guam, the defendant MELAN JUNIOR
6 MENDIOLA, knowingly received, in interstate or foreign commerce, a firearm, a Sturm, Ruger
7 & Company, Inc., 9 millimeter caliber pistol, Model P85, from which the importer or
8 manufacturer's serial number had been obliterated, in violation of Title 18, United States Code,
9 Sections 922(k).

10 **COUNT III - USING AND CARRYING A FIREARM**
11 **DURING A CRIME OF VIOLENCE**

12
13 On or about May 31, 2003, in the District of Guam, MELAN JUNIOR MENDIOLA, the
14 defendant, unlawfully, knowingly, and wilfully, during and in relation to a crime of violence for
15 which the defendant is being prosecuted in a court of the United States, namely, Aggravated
16 Murder, charged in Superior Court of Guam, case no.CF276-03, used and carried a firearm, and
17 in furtherance of such crimes, possessed such firearm, and used/discharged such firearm, in
18 violation of Title 18, United States Code, Sections 924(c)(1)(A)(iii).

19
20 **COMPLAINANT FURTHER STATES:**

21 I, Brian C. Ingargiola, being duly sworn, do hereby depose and state, that:

22 1. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives
23 (ATF) and have been so employed since July 2000. In that capacity, I attest to the following:

24 2. On May 31, 2003, Guam Police Department (GPD) officers responded to a shooting at
25 or around 157 Santa Maria Street, Santa Rita Village, Guam. GPD Officer D.D. Cepeda
26 observed the body of Miles Gonzales Fernandez lying motionless on the ground. Fernandez was
27

1 subsequently pronounced dead. Interviews of witnesses at the scene indicated a suspect, Melan
2 Junior Mendiola, and detailed that following an argument, Mendiola shot the victim twice with a
3 handgun and fled the scene, in the process driving over the victims body.
4

5 3. A search for MENDIOLA ended with his apprehension on May 31, 2003 at
6 approximately 4:30 PM, by the Guam Police Department, at a grey tin shack located on Kiko
7 Lila Street, Agat. At the time of his arrest MENDIOLA stated that he had a gun, and a firearm
8 was subsequently found located on a bed at the back of the shack. The firearm found was a
9 Sturm, Ruger & Company, Inc., 9 millimeter caliber pistol, Model P85, with an obliterated serial
10 number.
11

12 4. On May 31, 2003 at approximately 5:45 PM GPD Officer P.J. Santos #184 advised
13 MENDIOLA of his Constitutional rights via the Guam Police Department's Custodial
14 Interrogation Rights form which MENDIOLA acknowledged and signed. During this interview
15 MENDIOLA admitted to possessing the firearm and shooting Fernandez and driving over his
16 body with his vehicle while fleeing the scene.
17


18 5. A check of his MENDIOLA'S criminal history by ATF Special Agent Ken Torres
19 revealed that he had been convicted of possession of a controlled substance, a felony punishable
20 by a term of one year or more, in the Superior Court of Guam, case no. CF166-98, on April 21,
21 1998.
22

23 6. On November 24, 2004, Agent Torres contacted GPD Officer John Tyquienco, a
24 crime lab firearms examiner, who conducted a ballistics examination of the expended casings
25 recovered from the scene of the crime. Officer Tyquienco compared the recovered casings with
26 casings from a test fire of the firearm recovered and determined that they were fired from the
27 same pistol.
28


1 7. On February 3, 2005, ATF Special Agent John Quintanilla, a Firearms Interstate
2 Nexus Expert, examined digital photographs of the firearm recovered from MENDIOLA. Agent
3 Quintanilla concluded that the Sturm, Ruger & Company, Inc., 9 millimeter caliber pistol, Model
4 P85, with an obliterated serial number was a firearm as defined by Title 18, United States Code
5 (USC), Chapter 44, Section 921(a) (3) and was not manufactured in the Territory of Guam,
6 therefore it must have traveled in interstate and/or foreign commerce
7

8 8. Based on the foregoing information, I do believe that there exists probable cause that
9 Melan Junior MENDIOLA is in violation of Title 18 USC 922(g)(1), Possession of a firearm by
10 a convicted felon, Title 18 U.S.C. 922(k), Possession of a firearm with an obliterated serial
11 number, and Title 18 U.S.C., 924 (c)(1)(A)(iii), Use of a firearm during a crime of violence
12 (Title 9, Guam Code Annotated, Section 16.30, Aggravated Murder).
13

14 9. I therefore respectfully request the issuance of an arrest warrant for Melan Junior
15 MENDIOLA.
16

17
18 
19 Brian C. Ingargiola
Special Agent, ATF

20
21 SUBSCRIBED AND SWORN to before me this 29th day of May 2008.

22
23 
24 JOAQUIN V.E. MANIBUSAN, JR.
25 U.S. Magistrate Judge
26 District Court of Guam
27
28

Place of Offense:

City Hagåtña

Related Case Information:

Country/Parish _____

Superseding Indictment _____ Docket Number 08-00014
 Same Defendant _____ New Defendant x
 Search Warrant Case Number _____
 R 20/ R 40 from District of _____

Defendant Information:

Juvenile: Yes _____ No X Matter to be sealed: _____ Yes _____ x No

Defendant Name MELAN JUNIOR MENDIOLA

Alias Name _____

Address _____

Guam

Birthdate Xx/xx/1980 SS# xxx-xx-1623 Sex M Race PI Nationality Chamorro

U.S. Attorney Information:

AUSA Rosetta L. San Nicolas

Interpreter: X No _____ Yes _____ List language and/or dialect: _____

Location Status:

Arrest Date _____

☐ Already in Federal Custody as of _____ in _____

☐ Already in State Custody

☐ On Pretrial Release

RECEIVED
MAY 29 2008
 DISTRICT COURT OF GUAM
 HAGATNA, GUAM

U.S.C. Citations

Total # of Counts: 3 _____ Petty _____ Misdemeanor _____ X Felony

| | <u>Index Key/Code</u> | <u>Description of Offense Charged</u> | <u>Count(s)</u> |
|-----|------------------------------------|---|-----------------|
| Set | <u>1 18 USC 922(g)(1)</u> | <u>Felon in Possession of a Firearm</u> | <u>1</u> |
| Set | <u>2 18 USC 922(k)</u> | <u>Receipt of Firearm w/Obliterated Serial Number</u> | <u>2</u> |
| Set | <u>3 18 USC 924(c)(91)(A)(iii)</u> | <u>Using and Carrying a Firearm During Crime Violence</u> | <u>3</u> |
| Set | <u>4</u> | | |

(May be continued on reverse)

Date: 5/28/08 Signature of AUSA: [Signature]